

REMARKS

Claims 1-9 are all the claims pending in the application.

Obviousness Rejection

On page 2 of the Office Action, claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al., JP 11-354152 in view of Perton et al., US 5,472,809.

In response, Applicants note that the examiner describes at the bottom of the page 2 in the Office Action dated March 29, 2004, “ The compound of formula (I) is contained in an amount of 0.05-40 wt%, preferably 0.1-20 wt% of the organic solvent (0017)”. Applicants consider that the examiner probably intends to assert by this sentence that the content of phenylethylene carbonate in the claim 1 of the present application is anticipated by Suzuki et al. However, the content of phenylethylene carbonate in the claim 1 of the present application is “from 0.1 to 5.0 wt%”, which is narrower than the preferred range of Suzuki et al. (0.1-20 wt%). Furthermore, and importantly, the description in the present application clearly shows evidence of unexpected results within the claimed narrow range. In this regard, Applicants submit that the discharge capacity at -10°C and cycle retention for the battery of Example No. 27 (5 wt% of phenylethylene carbonate) are much superior than those of Comparative Example No. 13 (10 wt% of phenylethylene carbonate). Please see Tables 1 to 4. Considering this effect of the present invention, Applicants submit that it is clear that the recited range for phenylethylene carbonate is not disclosed in Suzuki et al. with sufficient specificity to constitute an anticipation and that the present invention provides unexpectedly superior results. In this regard, Applicants

REQUEST FOR RECONSIDERATION
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refer the Examiner to the standard of judgment specified in MPEP § 2131.03. Further, Applicants note that Perton et al. does not disclose the content of phenylethylene carbonate at all.

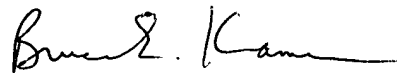
Therefore, Applicants submit that present claims 1-9 are unobvious over Suzuki et al in view of Perton et al., and thus withdrawal of this rejection is respectfully requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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CUSTOMER NUMBER

Date: June 29, 2004